

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS WHARTON

Plaintiff

v.

WASTE INDUSTRIES OF
PENNSYLVANIA, LLC d/b/a
GFL ENVIRONMENTAL
Defendant

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No. _____

JURY TRIAL DEMANDED

NOTICE FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C.
§1332(a)(1), 1391(b)(2), 1441(a) and (b), and 1446(a) and (b)

Comes now the Defendant, by and through their attorneys, The Chartwell Law Offices, LLP. by E. Patrick Heffron and hereby submit notice to the United States District Court for the Middle District of Pennsylvania for Removal of the above-entitled action to this court and in support thereof respectively represent the following:

1. Plaintiff, Thomas Wharton, filed a civil action in the Court of Common Pleas of Luzerne County on or about March 17, 2023. (A copy of the Complaint is attached hereto as Exhibit "A.")
2. Pursuant to the Complaint, Plaintiff is a competent adult individual and citizen of Pennsylvania residing at 620 Wilson Avenue, Harding, Luzerne County, PA.

3. Moving Defendant is a North Carolina company with its principal place of business located at 3301 Benson Drive, Suite 601, Raleigh, North Carolina.

5. Diversity of Citizenship exists between the Plaintiff, a Citizen and resident of Pennsylvania, and the Defendant, a Citizen of North Carolina, pursuant to 28 USC 1332(a)(1) and 1441(a) and (b).

6. Said diversity of citizenship existed at the time the action sought to be removed was commenced and continues to the time of the filing of this Notice.

7. The Plaintiff claims that he was injured on June 3, 2021 in Luzerne County, within the Middle District of Pennsylvania, when he was struck by a flying garbage can which was ejected from Defendant's garbage truck's hydraulic system with "significant force, speed and uncontrollable management....lifting Plaintiff off his feet and throwing him onto the ground backwards."

8. Removal is based on diversity of citizenship pursuant to 28 U.S.C. 1332(a)(1) and 1441(a) and (b).

9. Removal of this case to the Middle District of Pennsylvania is proper pursuant to 28 U.S.C. §1446.

10. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §1391 as the Middle District is a judicial district in which a substantial part of the events or omissions giving rise to the Plaintiff's claim occurred.

11. Plaintiff has averred in his Complaint that he is seeking damages in excess of jurisdictional limits plus interest and costs.

12. The Plaintiff has also alleged that he has sustained injuries all of which could be permanent in nature to his chest, ribs, mid back and sternum as well as other various injuries.

14. The Plaintiff has also alleged that he has experienced past, present, and future medical bills and treatment, pain and suffering, loss of income and earning capacity, mental anguish, and embarrassment.

17. Based upon Plaintiff's Complaint and the injuries and damages as pled, it is believed, and therefore averred, that the Plaintiff's prayer for damages will be in excess of \$75,000.00, exclusive of interest and costs.

18. Diversity of Citizenship existed at the time the action sought to be removed was commenced and continues to the filing of this Notice. Therefore, Moving Defendants are entitled to removal to the Middle District pursuant to 28 U.S.C. §1332(a)(1), 1391(b)(2), 1441(a) and (b), and 1446(a) and (b).

WHEREFORE, the above action now pending against the Defendants in the Pennsylvania Court of Common Pleas of Luzerne County is therefore removed to this Honorable Court.

THE CHARTWELL LAW OFFICES, LLP

By: *Patrick Heffron*

E. Patrick Heffron, Esquire

I.D No.: 93126

125 North Washington Avenue

The Connell Building, Suite 240

Scranton, PA 18503

Attorney for Defendant

CERTIFICATE OF SERVICE

I, E. Patrick Heffron, Esquire hereby certify that I have this 26th day of April 2023 served a true and correct copy of the foregoing Notice of Removal, via electronic mailing upon the following individuals:

Kevin Conaboy, Esquire
Abrahamsen, Conaboy & Abrahamsen, P.C.
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